



STATE OF INDIANA

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Mr. Stanley T. Rorick
Office of Legal Counsel, Indiana Department of Environmental Management
100 N. Senate Ave., IGCN 1307
Indianapolis, IN 46204-2251

*Re: Informal Inquiry 10-INF-59; Requests for Lists of Names and Addresses
Under Ind. Code § 5-14-3-3(f)*

Dear Mr. Rorick:

This is in response to your informal inquiry regarding lists of names and addresses maintained by public agencies. Pursuant to Ind. Code § 5-14-4-10(5), I issue the following opinion in response to your inquiry. My opinion is based on applicable provisions of the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*

In your inquiry, you seek clarification regarding how a public agency should respond to a records request seeking access to a list of names and addresses received by -- but not created by -- the agency. Specifically, if an entity or individual outside the public agency creates a list of names and addresses and submits it to the agency, what is the effect of Ind. Code § 5-14-3-3(f)?

Under subsection 3(f) of the APRA, "a public agency is not required to create or provide copies of lists of names and addresses (including electronic mail account addresses) unless the public agency is required to publish such lists and disseminate them to the public under a statute." *Id.* "However, if an agency has created a list of names and addresses (excluding electronic mail account addresses), it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law." *Id.* Additionally, certain lists of names and addresses, (e.g., names and addresses of employees of a public agency) may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes. I.C. § 5-14-3-3(f)(1) - (3).

Your inquiry recognizes the difference between the first two sentences of subsection 3(f). In the first sentence, the APRA provides that a public agency is not obligated to "create or provide" copies of lists of names and addresses. In the second, a public agency that "has created" such a list must permit a requester to inspect and make memoranda abstracts from that list. Noticeably absent from the second sentence is any

mention of whether or not a public agency must also permit inspection of a list that the agency maintains but did not create.

As a general rule of statutory construction, if a statute is unambiguous (i.e., susceptible to but one meaning), Indiana courts give the statute its clear and plain meaning. *Elmer Buchta Trucking, Inc. v. Stanley*, 744 N.E.2d 939, 942 (Ind. 2001). “[T]he words and phrases in a statute are to be given their plain, ordinary, and usual meaning unless a contrary purpose is clearly shown by the statute itself.” *Journal Gazette v. Board of Trustees of Purdue University*, 698 N.E.2d 826, 828 (Ind. App. 1998). In my opinion, the language of subsection 3(f) is unambiguous: “a public agency is not required to create or provide copies of lists of names and addresses” unless another law specifically requires the agency to publish and disseminate such lists to the public. I.C. § 5-14-3-3(f). The next sentence in the subsection qualifies that provision to require that lists *already created* by public agencies be open to inspection, but it provides no such qualification for lists that are maintained by, but not created by, the agencies. Without such a qualification in the second sentence for the latter category of lists, the general rule provided in the first sentence of subsection 3(f) governs APRA requests for access to them: a public agency is “not required to provide copies of lists of names and addresses” that the agency did not create, provided that no other statute requires the agency to publish such lists and disseminate them to the public. *Id.*

If I can be of additional assistance, please do not hesitate to contact me.

Best regards,



Andrew J. Kossack
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